

Montana Supreme Court's Equal Justice Task Force
Response to LSC Program Letter
August 29, 2002

Introduction

The Montana Supreme Court Equal Justice Task Force, Ad Hoc Committee on LSC Program Letter 2000-7, has prepared this response to LSC Program Letter 2000-7. The Montana Supreme Court's Equal Justice Task Force (EJTF) was created by the Court in 2000 to be the primary entity responsible for state planning within Montana. The EJTF is composed of fifteen members from various sectors of the profession and diverse geographical areas. (See membership list attached as Exhibit A.) The Court's Order asks the Task Force to study the legal needs of low and moderate income Montanans, provide long-range, integrated planning among the numerous legal assistance providers and other interested agencies and entities, coordinate civil access to justice, foster the development of a statewide, integrated civil legal services delivery system, design and implement new programs to expand access to justice, and work toward securing adequate funding for civil access to justice. (See Order attached as Exhibit B.)

The process for responding to LSC Program Letter 2000-7 included discussion among the Task Force members and the members' recommendation that an Ad Hoc Committee be formed to respond to the letter. That Ad Hoc Committee was composed of Mary Helen McNeal, Professor, University of Montana School of Law and EJTF Chair; Klaus Sitte, Executive Director of Montana Legal Services Association and EJTF member; Judy Williams, Assistant Attorney General, EJTF member and former Pro Bono Coordinator; and Ann Gilkey, Equal Justice Coordinator of the State Bar of Montana. Committee members prepared initial draft responses to various components of the report. The Committee then discussed the draft report and made revisions. The final draft report was submitted to the full Equal Justice Task Force for its review and suggestions.

General Comments

Unlike many more populous states, Montana has always had one, statewide legal services program. Although there are fewer than one million residents in the state of Montana, the program covers a huge geographical area. Consequently, the state planning challenges facing Montana are unique. While coordinating a statewide program that covers a large geographic area is demanding, the real state planning challenges focus less on coordination and more on general expansion and innovation in services.

Like many states, Montana is a long way from achieving equal access to justice for its low-income residents. Montana has a small population base of less than one million residents and a large, mostly rural geographic area, covering 145,388 square miles. Montana is the fourth largest state but ranks 44th in population. Most of the state is rural, with a total population density of 6.2 persons per square mile - 1.16 poor

persons per square mile. With one out of every five residents within 125% of the federal poverty index, low-income people in this state have limited resources available in nearly all geographic areas of the state and for all needed services.

For many rural residents, legal help can be obtained only by placing long distance telephone calls or driving several hours. These circumstances, combined with Montana's often extreme weather conditions, create significant barriers to securing legal assistance, especially for low-income residents. The EJTF is acutely and painfully aware that Montana's poverty law resources are extremely scarce. Maximizing available resources, to whatever extent possible, is among the chief concerns of the EJTF.

The latest census figures available indicate that Montana's poverty population has increased slightly from the 1990 census. There are about 3,500 more low-income people in the state today than a decade ago. While the change is statistically insignificant, the important fact is that Montana remains among the poorest states in the country. This overwhelming fact impacts all justice stakeholders as well as all nonlegal assistance service providers.

Through the work of the Montana Supreme Court's Equal Justice Task Force, renewed energy is focused on identifying Equal Justice issues within the state, quantifying legal needs, and developing innovative strategies for meeting these needs. The Task Force has laid critical groundwork for these activities. Because the Task Force was only constituted eighteen months ago, measurable results do not yet exist.

I. To what extent has a comprehensive, integrated and client-centered legal services delivery system been achieved in a particular state?

Overview: As of 2002, Montana has only marginally achieved a comprehensive, integrated and client-centered legal services delivery system. Providers of legal assistance to low-income people remain scarce and significantly underfunded. The Task Force itself is a volunteer organization. The major legal assistance resources to the state's 190,000 low-income residents are 50 full-time paid staff, employed by the principal legal services providers. Some 600 of the state's 2700 actively practicing lawyers did some level of *pro bono* service, expanding available services slightly. The result is that, while a significant number of low-income people receive legal assistance, some receive none. The EJTF is well aware that there is much to be done and very few resources with which to do it.

To assist in its planning efforts, the EJTF recently conducted a full day retreat, assisted by a small planning grant provided by the Legal Services Corporation. Washington state facilitators Columbia Legal Services Executive Director Ada Shen-Jaffe, Washington State Bar Justice Programs Manager Joan Fairbanks, and Judge Paul Bastine assisted Task Force members in identifying our goals, barriers to achieving those goals, concrete steps to focus on in the near future, and methods for facilitating our future work. The EJTF is now at the point where it can seriously engage in updating and

revising the state planning efforts begun by MontCom, and can serve as the catalyst for initiatives aimed at greater access to justice in Montana.

At the EJTF Retreat, Task Force members created the following work plan for addressing short-range Task Force goals:

1. Conduct a comprehensive Legal Needs Study;
2. Clarify and revise, as necessary, the role and structure of the Task Force to empower it to better accomplish its mission;
3. Create an infrastructure, including support and resources, to assist the Task Force in accomplishing its mission;
4. Identify a resource development team for increasing the delivery system capacity;
and
5. Effectively and strategically use the Equal Justice Conference scheduled for September 27, 2002 to assist in accomplishing these goals.

1) What are the important issues that impact upon low-income people within your state? How is your state responding to these issues?

Montana has not engaged in a broad, all-inclusive legal needs study. It has relied primarily on the ABA Comprehensive Legal Needs Study, now substantially outdated. The EJTF, through its Legal Needs Study Committee (see list of Committee members attached as Exhibit C), is moving ahead in its efforts to conduct a statewide legal needs study. Throughout the last year, the Committee, with the assistance of a research assistant from the University of Montana School of Law, gathered materials on studies conducted throughout the country and on potential funding sources. The EJTF submitted an unsuccessful application for an ABA grant to identify the legal needs of aging clients. It also applied for a State Justice Institute grant for an Equal Justice staff person to help develop a legal needs study and serve the needs of the Task Force generally. That grant was rejected because of the federal funding problems for SJI. The EJTF has also inquired of LSC itself as to whether funds are available for conducting the legal needs study. MLSA successfully obtained a grant to provide a VISTA volunteer to the State Bar to work on Equal Justice issues. The volunteer's chief responsibility is to help the EJTF build the capacity to complete a comprehensive study. The Legal Needs Study Committee continues to explore funding possibilities at the state and national levels, and has identified a source of partial funding in Montana through an attorney-liability insurance company.

Very recently, the Committee decided to adopt the methodology used in Oregon's Comprehensive Legal Needs Study, i.e., cluster sampling, focus groups, and interviews with judges, legal services providers, other service providers, bar members,

and others, and has permission to use the Oregon questionnaire. The Committee has spoken with potential consultants that it hopes to engage to assist with this project, and has developed a draft timeline for completion of the study. The Committee has identified social scientists who may assist with a legal needs study, but none are willing to sign on until funding is secured.

Montana's legal assistance service providers do engage in priority setting, using several methods to ascertain client needs. Montana Legal Services Association [MLSA], the state's largest legal services provider, regularly conducts a needs assessment among clients, client groups, agencies, attorneys, concerned State Bar of Montana members, various State Bar committees, and others to determine critical client needs.

Every year, MLSA distributes a one-page survey form to each of its 11 field offices for dissemination in local communities. Each field office must return a specified number of client-completed surveys to MLSA's administrative office. Field offices also poll staff, client services providers, and local bar leaders. Some field offices and MLSA-sponsored clinics use focus groups to obtain this data. The results are tabulated and presented annually to the MLSA Board of Trustees to determine whether changes in program priorities should be made. More than one hundred survey documents were tabulated in 2002. (See results attached as Exhibit D.) While not a scientific survey, the tabulations are helpful to MLSA staff and Board in evaluating MLSA priorities.

Last year, MLSA received funding from the Montana Department of Public Health and Human Services [DPHHS] to conduct a statistically valid survey of the legal barriers that prevent Temporary Assistance to Needy Families [TANF] recipients from achieving full employment. MLSA contracted with the University of Montana's Bureau of Business and Economic Research [BBER], which has a long history of competent, thorough and accurate survey experience. The TANF Legal Barriers survey is based upon a 400-person sample. MLSA is currently in the process of analyzing the data and determining whether the results impact current MLSA priorities.

Other Montana legal assistance providers use different methods to assess priorities. The Montana Advocacy Program, the Protection and Advocacy organization, convenes focus groups to assess client needs. MAP uses the results of the focus groups to direct client services to those persons and issues most important to MAP clients. Since eligibility criteria for MAP services are not income-based, MAP finds this method valid and credible in determining the critical legal needs of the persons and groups it represents.

The People's Law Center (PLC) represents persons seeking Social Security Disability and other public benefits. PLC is available to do lobbying and other restricted activities. PLC conducts no specific needs assessment of general client populations.

2) What are the components of the delivery system?

MLSA, the only statewide legal services organization, is the primary provider of legal help to low-income people. Two other staff providers are the Montana Advocacy Project and the People's Law Center. There are varieties of smaller projects throughout the state, which are listed below.

A. Montana Legal Services Association

MLSA serves clients through the following delivery models:

[1] Direct Representation at 11 field office locations. MLSA provides assistance by representing clients in priority cases in eleven field offices throughout the state. To facilitate access, clients are assisted by individual attorneys, legal interns and/or paralegals. Direct representation includes the full range of assistance, including legal counseling, advice, negotiation, trial, and appeals, as necessary.

[2] Two statewide hotlines, providing information, advice and brief services. The hotlines serve Montana's eastern and western telephone LATAs [Local Area Telephone Access], providing access throughout the state via toll-free 800 numbers. (Hotline service areas are divided along LATA lines due to the costs associated with across-LATA line calls.) Persons seeking services call either a local number or the toll-free hotline number, depending on the caller's location. Cases not handled by hotline personnel are referred to MLSA field offices, *pro se* clinics, local *pro bono* referral systems and other agencies, as appropriate. Developing a Hotline Manual is an ongoing project of MLSA Hotline staff. Several field offices also deliver advice-only services for local callers on regular advice-only days.

[3] Several *pro se* clinics and locally sponsored *pro bono* panels. MLSA supplements and supports client services through advice clinics, private attorney involvement projects, *pro se* advocacy assistance, and community education activities. A new Ravalli County Family Law Advice Clinic, based on MLA's ABA award-winning Family Law Advice Clinic in Missoula, was created with assistance from the local district court. It serves rural client needs in southwestern Montana. MLSA has continued work on the Yellowstone County Area Bar Association/MLSA-sponsored *pro se* Family Law Project. MLSA worked with the Northwestern Montana Bar Association, the Montana Pro Bono Project and local District Court Judges to establish a new *pro bono* project in Kalispell.

[4] Two websites. MLSA's own website, www.montanalegalservices.com, now offers answers to Frequently Asked Questions. A second website, www.MontanaLawHelp.org, is being created by MLSA in partnership with the State Bar of Montana and the EJTF. This website includes all stakeholders under one umbrella for the dissemination and distribution of legal resources and information. Low-income residents will have access to up-to-date legal information, geared specifically to where the website user lives. MLSA,

cooperating with the EJTF and the State Bar, expects to expand the capability of the website to include user friendly *pro se* forms and *pro bono* recruitment initiatives during the next grant period. Montana's rural communities and seven Indian reservations have surprisingly good access to the Internet in schools, libraries, government facilities, and private agencies.

[5] A unique video conferencing pilot project. For further discussion of this project, see Section I (5).

B. The Montana Advocacy Program (MAP) is the state's federally funded Protection and Advocacy agency. It provides services in a variety of areas, including Assistive Technology, ADA issues, and services to the mentally ill and developmentally disabled. Although MAP has no income guidelines, many of its clients are low-income.

C. The People's Law Center is a private, non-profit legal assistance provider, handling Social Security disability cases [Supplemental Security Income and Social Security Disability Insurance], FAIM, food stamps, Medicaid, and other public benefits cases. PLC does not handle family law cases. PLC is also able to provide restricted services to clients.

D. Cascade County Law Clinic (Great Falls) serves Cascade County and a few outlying contiguous counties. Started by the local bar association, it utilizes paralegal students from the University of Great Falls to prepare legal documents on cases the local district court judges then refer to local volunteer lawyers participating on an opt-out basis. It handles mainly uncontested divorces. In the last few years it expanded to also provide information to parents in child protection cases.

E. State Bar of Montana's Emeritus Program was recently approved by the State Bar Board of Trustees. It is designed to give recently retired lawyers incentives and make it easy for them to participate in *pro bono* programs.

F. State Bar of Montana's Pilot Reduced Fee Panels are currently being established in several areas and will provide people within the income guidelines (up to 250% of poverty level) with referrals to lawyers who agree to accept a reduced hourly or flat fee.

G. Area Agency on Aging Offices have limited funding available to help elderly people across the state with their legal problems. Their assistance is not based upon income. Most of their resources are used to hire lawyers to provide educational seminars.

H. Yellowstone County Bar Association Family Law Project (Billings) provides educational sessions for clients seeking family law legal assistance, followed by *pro se* clinics and *pro bono* referrals.

I. State Law Library Family Law Advice Clinic (Helena) serves lay people with incomes up to 250% of poverty level who need legal advice on domestic relations matters. Trained state-employed volunteer lawyers meet with and advise participants. Volunteers are covered by MLSA's malpractice insurance. In the fall of 2002 private practice pro bono attorneys will begin participating in other subject areas during specific time periods.

J. Bankruptcy Clinics (Helena and Billings), organized on a "self-help plus" model, are organized by MLSA offices. Clients are screened for appropriateness for doing their own bankruptcies and given instruction in form completion by private attorneys who also review the completed forms and provide court filing instruction.

K. Dissolution Clinics (Helena, Kalispell) Using MLSA staff and/or volunteer attorneys, low-income people are assisted with filing pro se dissolution or parenting plans (custody) actions.

L. Silverbow Bar Association Pro Bono Referral Project (Butte) was the first "all-in" pro bono project in Montana. In conjunction with the local bar's pro bono committee, local district court judges have their law librarian/paralegal assistant place MLSA-screened family law cases with local attorneys on an alphabetical rotating basis.

M. Gallatin & Park County Pro Bono Projects (Bozeman and Livingston) are administered by the Bozeman MLSA office. In Bozeman a local law firm has provided paralegal assistance in record-keeping for the pro bono project, which places cases with volunteers. In Park County the local district court judge and his law clerk have required the members of the small local bar to accept pro bono referrals on a rotating basis unless they can provide a good reason for exclusion.

N. Northwestern Montana Bar/MLSA Pro Bono Project (Kalispell) utilizes volunteer attorneys to advise clients in a monthly clinic held at the county courthouse. MLSA pre-screens clients for financial eligibility and type of case. Clients are scheduled for morning or afternoon sessions based on their legal problem.

O. Board of Visitors represents patients in commitment hearings.

P. MontPIRG's Landlord-Tenant Hotline offers free advice to tenants and landlords statewide, without regard to income, via toll-free number.

Q. ASUM Legal Services provides legal representation and assistance to University of Montana students in both civil and criminal matters. Although ASUM does not screen for income eligibility, many of the recipients of its services

are unable to afford private attorneys. The clinic handles primarily family law, consumer, landlord tenant, insurance issues, and misdemeanors.

R. Indian Law Clinic at the University of Montana School of Law provides services to Indian tribes and Indian people on a range of issues. Many of their cases assisting individuals concern abuse and neglect matters and implementation of the Indian Child Welfare Act.

S. The American Civil Liberties Union has a staff attorney and volunteer lawyers who provide representation on select civil and criminal cases involving civil rights violations. While not strictly income-based, it does not generally provide free representation to clients with resources to hire a lawyer.

T. The Community Dispute Resolution Center in Missoula offers programs in a variety of areas. Trained mediators meet with litigants in the Justice of the Peace courts in Missoula before their cases are scheduled for trial. The Center also provides services on several of Montana's Indian reservations and recently has initiated a mediation program for dissolution matters handled in Missoula's District Courts.

U. Tribal Legal Services, Salish and Kootenai Federated Tribes handle a limited number of civil cases including family law, landlord-tenant and consumer matters.

V. Crowley, Haughey, Hanson, Toole & Dietrich is the largest private law firm in Montana, employing about 90 - 100 lawyers in its Billings, Helena, Bozeman, Kalispell and Williston (North Dakota) offices. In 1996 it hired former MLSA Migrant Unit managing attorney, Gary Connelley, to provide pro bono legal representation and support and encourage the pro bono efforts of the firm's legal staff.

3) Has this system created mechanisms to assess its performance in relationship to commonly-accepted external guides such as the ABA Standards for Providers of Civil Legal Services to the Poor, the LSC Performance Criteria or some other set of objective criteria? What is the protocol for undertaking system performance review and when was a review last undertaken?

There is no formal, statewide mechanism to assess the effectiveness of this delivery system, although some entities may engage in this process independently. The EJTF has not addressed this issue since its creation eighteen months ago, although it recognizes the importance of assessing services in relationship to external standards. Hopefully, the EJTF can turn its attention to this and many other issues once the legal needs study is completed.

The EJTF does anticipate that the legal needs study will ask some questions of those being interviewed regarding the effectiveness of MLA's two hotlines.

4) Does your statewide system work to ensure the availability of equitable legal assistance capacities to clients - regardless of who the clients are, where they reside or the languages they speak? How does your system ensure that clients have equitable access to necessary assistance including self-help, legal education, advice, brief service, and representation in all relevant forums? Please describe what steps you anticipate taking to ensure equitable access in the coming years.

Availability of Equitable Legal Assistance:

Montana is a very rural state. In 2000, the average number of people per square mile was 6.2. Montana's population is not very diverse. Caucasians comprise 90.6% of the population. There are seven Indian reservations within the state, representing eleven tribes. Montana's Indian population represents approximately 6% of its total population. The 2000 census counted Montana's Hispanic or Latino population at 2%, Asian at .5%, Black at .3%, Hawaiian or other Pacific Islander at .1% and other race or races at 2.3%.

Given the state's geography and demographics, providing equitable legal services to every Montanan is a daunting task. Identifying specific client needs is an on-going challenge. Self help clinics, classes and presentations are being conducted around the state, but are locally driven. The primary barrier to the availability of equitable legal assistance throughout the state is geography. Other less severe barriers include disability, language, and institutionalization.

All the private nonprofit legal assistance providers [MAP, PLC & MLSA] have adopted policies that encourage equal access to services, regardless of who the clients are, where they reside or what languages they speak. Interpreters are available. All legal assistance providers serve clients outside specific office locations and travel to other locations to reach clients. All have 800 numbers for telephone access throughout the state.

As indicated above, MLSA operates two hotlines in an effort to reach clients throughout the state. However, services offered by each hotline vary considerably. The eastern Hotline serves as the sole intake point for three of the four field offices within its service area. Because of stronger pro bono programs in the Billings area, callers to the eastern Hotline may receive referrals to Billings area *pro bono* lawyers for cases not handled by MLSA. The eastern hotline refers all non-priority family law callers to the Yellowstone Area Bar Association/MLSA-sponsored *pro se* Family Law Project. Callers to the eastern hotline are referred to an MLSA attorney who provides assistance or makes the appropriate referral.

The situation in western Montana is very different. Because the western hotline has seven offices within its service area, it is unable to serve as the sole intake point. The western hotline has no *pro bono* referral list in the Missoula area. Callers may be referred to a specific local office for referral to an attorney, who may represent the caller for a fee. Callers to the western hotline are assisted by a paralegal, not an attorney.

Both MLSA and the EJTF see the problems inherent in the present hotline system and the resulting variables in service throughout the state. At some point in the future, the EJTF may examine the feasibility of developing a central intake point for all services within the state and other mechanisms to provide more even services throughout the state.

MLSA and other entities are making increasing use of technology to reach clients throughout the state. See answer to Section I (5) for a fuller discussion of this.

An additional mechanism used by several Equal Justice providers is public legal education. The State Bar of Montana and several local bar associations conduct educational programs for the public on landlord/tenant law, family law, and the legal system. MLSA recently hired two VISTA volunteers to develop a model guardianship project for statewide distribution, and two volunteers to coordinate statewide community education programs.

MLSA also serves its clients with educational presentations throughout the state, targeting in particular migrant farmworkers and Native Americans. MLA's Community Education Project presented educational seminars specifically targeting Montana's low-income population in Helena, Billings, and Missoula. These seminars were free and open to the public. Topics for these seminars included Tenants' Rights, Legal Issues of Senior Citizens, and General Information About Bankruptcy. Speakers for these seminars included two MLSA staff members and four local volunteer attorneys. Among the collaborating organizations were the Area IV Agency on Aging, MontPIRG, the Community Housing Resource Board in Billings, the Human Resources Development Council in Billings, and the Career Training Institute in Helena.

MLSA distributes pamphlets to Montana's low-income population and others. Pamphlets distributed include MLSA-produced publications and pamphlets produced by the State Bar of Montana, MontPIRG, the Federal Trade Commission, Consumer Action, the Friendship Center of Helena, the National Consumer Law Center, Montana's Child Support Enforcement Division, and Montana's Department of Administration's Office of Consumer Affairs. MLSA has posted pamphlet racks containing legal and consumer informational pamphlets and fact sheets in the Lewis and Clark County Courthouse, the Broadwater County Courthouse, and the Office of Public Assistance in Lewis and Clark County. MLSA has distributed literature addressing family law, landlord tenant issues, and consumer issues to the Lewis and Clark County Office of Public Assistance, the Career Training Institute in Helena, the Lewis and Clark City-County Health Department, the Lewis and Clark County Cooperative Health Center, the Helena Indian Alliance, the Broadwater County Office of Public Assistance, the Office of Public Assistance in

Livingston, and the Human Resources Development Council in Billings. Each MLSA office in the state has copies, in paper form and on disk, of all pamphlets that MLSA distributes.

The EJTF, through its various committees, is examining the special needs of selected populations in need of legal services. The Task Force's Special Populations Committee has subcommittees examining the unique legal needs of the elderly, children, victims of crimes, and the disabled. The Subcommittee on Children is focusing on custody issues and parenting plans, and is examining a pilot alternative dispute resolution program in Helena for these cases. The Subcommittee on the Elderly is developing a list of attorneys available for pro bono services and/or conducting relevant legal advice sessions at retirement/nursing home facilities for the elderly. The Task Force also has a Committee addressing migrant, Native American and immigration issues.

Future Steps:

The primary step planned to examine equitable distribution of legal services is the pending legal needs study. Once it is completed, the Task Force will examine, with the assistance of qualified consultants, what services are not being provided and who is not being served.

Videoconferencing will soon be available to assist some low-income people in accessing court and other legal services. Combined grants to MLSA, the Montana Supreme Court's Court Assessment Program, and Montana's Juvenile Probation Association are providing video teleconferencing lines and equipment to all judicial districts, some legal services offices, and some detention facilities in the state. These entities have collaborated with the state to make the most efficient use of available funds. The goal is to enable litigants in one part of the state to be represented by an attorney in another part of the state, to have greater access to rural judges, to participate in meetings, and potentially to even engage in alternate dispute resolution from a remote location. The teleconferencing system will facilitate the participation of witnesses, including experts, and will decrease the cost of litigation.

Hospitals and mental health services also will be connected to the videoconferencing system. People in residential treatment or other institutional settings will be able to participate in legal proceedings and other aspects of their treatment without leaving the institution. This will provide better access for those in need of mental health and chemical dependency services, and will allow participation in status conferences and treatment hearings. Providers will be able to participate more easily without relying solely on written reports. Currently, Miles City, Missoula, Lewistown, Roundup, the Billings detention facility and Missoula MLSA have videoconferencing capabilities.

The EJTF anticipates working more closely with small, specialized providers within the state, particularly as we embark on the legal needs study. Although the Task Force surveyed most providers in the spring of 2001 to identify the services they provided, this must be an ongoing project. Through these efforts and the results of the legal needs study, the Task Force can work to better complement existing services.

5) How does the legal service delivery system employ technology to provide increased access and enhanced services to clients throughout the state? What technological initiatives are currently underway and how will they support the integrated statewide delivery system?

In a state as widespread and sparsely populated as Montana, using technology, and the resources technology creates, is essential. Montana is keeping abreast of technological systems that enhance the delivery of legal assistance to low-income people. All services providers have operated with toll-free 800 numbers for years. All service providers are fax and voice/TAD capable.

To expand delivery possibilities, service providers have started offering information on the Internet. MAP, for example, has had an operational website for several years: www.mtadv.org. MLSA was next in setting up its informational website: www.montanalegalservices.com. Although most low-income people do not have personal computers, Montana's rural communities and seven Indian reservations have good access to the Internet in schools, libraries, government facilities, and at private agencies. Thanks to the efforts of progressive rural telephone cooperatives, Internet connections are typically good.

The new website, www.MontanaLawHelp.org, will provide low-income residents with access to up-to-date legal information, geared specifically to where the website user lives. Once the website is fully operational, anticipated in the fall of 2002, access will be available throughout the state. The EJTF is supporting MLSA and the State Bar efforts to expand the capability of the website to include user friendly *pro se* forms and *pro bono* recruitment initiatives. Another part of the lawhelp web site will be devoted to pro bono attorneys.

The Montana Supreme Court's Commission on Self-Represented Litigants, with extensive assistance from MLSA's NAPIL fellow, Tara Veazey, has prepared a comprehensive packet of family law forms available to pro se litigants, pro bono attorneys and others. The forms will be available through the clerks of court offices and will soon be available on line, including through LawHelp. The packet of forms includes an Introduction to Family Law which is a detailed description of how to use the forms and utilize the family law legal system.

6) How has the legal service delivery system expanded its resources to provide critical legal services to low-income clients including hard to reach groups such as migrant farmworkers, Native Americans, the elderly, those

with physical or mental disabilities, those confined to institutions, immigrants and the rural poor?

Much of Montana's low-income population can be defined as hard to reach. Montana's migrant farmworkers and Native Americans on Montana's seven Indian reservations are among the poorest and most vulnerable of the state's residents.

MLSA provides legal services to the Indian reservations, migrant laborers and immigrant populations. Its Billings office provides legal services to the Crow and the Northern Cheyenne Reservations. There is a MLSA office with one attorney in Browning serving the Blackfoot Reservation. The Missoula office, with the assistance of clinical interns from the University of Montana School of Law, provides legal assistance to the Salish-Kootenai Tribes on the Flathead Reservation. MLSA has one attorney in Poplar serving the Fort Peck Reservation and the Havre office provides services to the Rocky Boys and Fort Belknap Reservations. The Indian Law Clinic at the University of Montana Law School provides legal representation to Indians and tribes throughout the state in selected cases.

On the Flathead Reservation, the Missoula Community Dispute Resolution Center is assisting the tribe in starting a culturally appropriate community dispute resolution center addressing a variety of legal issues, including parent-teen and victim offender programs. Through the University of Montana's School of Education, the Community Dispute Resolution Center has also begun discussions with the Northern Cheyenne Tribe to assist in developing a domestic and restorative justice dispute resolution center on that Reservation. Initial contacts with the Crow Tribe regarding similar programs have also begun.

The Billings Office of MLSA serves migrant workers coming to the area for the sugar beet industry. MLSA utilizes bilingual advocates, an attorney and an outreach worker, who conducts intake interviews on the agriculture sites.

The Department of Public Health and Human Services (DPHHS) has a part-time Legal Services Advisor (a non-attorney) who provides information regarding legal services to the elderly. DPHHS also contracts with 11 rural Area Agencies on Aging, which offer free, short sessions for elderly patrons with legal questions. Pro bono attorneys provide these services. Limited funds are available to pay for additional legal services in some instances.

7) What steps have been implemented within the legal services delivery system and among client communities to identify and nurture new leaders? Do the existing leaders reflect the diversity within the state and within client communities that your delivery system serves? Do your state's Equal Justice leaders reflect the gender, race, ethnic and economic concerns of important but sometimes overlooked groups within your state? Does the leadership provide opportunities for innovation and experimentation; does it support creative solutions to meet changing needs; are new ideas welcomed; are

clients nurtured as leaders? Has the leadership been given sufficient authority and resources to implement needed changes?

Equal Justice Task Force membership was specifically designed to encourage new leadership on these issues. The eight original members of the Task Force were recommended to the Montana Supreme Court by the State Bar of Montana. Pursuant to the Court's Order, those members then recommended the remaining seven members of the Task Force to the Court. In making these recommendations, the initial members sought to include relatively new members of the profession with an interest in Equal Justice issues, and to have geographical diversity and diversity of professional experiences. In fact, the Task Force is comprised of senior bar leadership, lawyers with fewer than five and fewer than ten years of practice, legal services lawyers and other providers, court and judicial personnel, and a law school representative.

The State Bar of Montana's Access to Justice Committee, the bar entity that has as its mission supporting and encouraging pro bono efforts throughout the state, also seeks to encourage new leadership. Members are appointed to three year terms. In recent years, significant leadership has developed within this group from some of its newer members.

Because of the limited number of people on the Task Force and the Court's mandate that a variety of entities be represented, there is no client representative. Early on in the Task Force's work, it realized the problem this presents. Consequently, the Task Force has developed a plan to obtain on-going consumer feedback. A MLSA staff attorney will be assisting the Task Force in identifying consumers interested in serving on one of the Task Force's many committees, and in overcoming whatever obstacles may exist for their meaningful input. This project will be initiated in the fall of 2002. When new positions become available on the Task Force, the membership will examine the importance of recommending to the Court that one or more consumer members be added.

The Task Force is very concerned that its work reflect the specific interests and needs of Montana's largest minority population, Native Americans. One member of the Task Force is a Fort Peck Tribal Judge. Members of other tribes serve on the Task Force's Committees and one of the Committees focuses on Native American issues. The Task Force needs to address how to involve more Native American people in its work, and develop mechanisms for responding to issues of particular concern to Indian people.

The Task Force, the State Bar's Access to Justice Committee, and the Supreme Court's Commission on Self-Represented Litigants are all fairly balanced with respect to gender. Members practice in a variety of settings with diverse specialties, including disability law, and membership includes representative court clerks and judges, and the state law librarian.

The MLSA staff is relatively diverse. Women are very well represented, including in management positions. MLSA has Hispanic and Native American staff and managers.

The MSLA Board of Directors includes six client representatives, including a low-income advocate, a tribal judge, and representatives from the Montana Indian Association and the Senior Citizen's Association.

Resources and authority remain issues of concern and were identified at the recent Equal Justice retreat as major stumbling blocks to accomplishing our goals. With the assistance of the able facilitators, participants identified lack of authority for the Task Force to do its work as a primary concern. Although the State Bar has recently assumed more of a leadership role on these issues and committed some financial assistance, resources remain a problem. By virtue of its designation as a Task Force (rather than a Commission), the Task Force receives no financial support from the Supreme Court. Retreat participants agreed that working with the Supreme Court, the State Bar and others to address these issues is a top priority for the Task Force. During our last meeting, the Task Force formed an ad hoc committee to work on clarifying the Task Force's role as the state planning entity, at securing a change in status from Task Force to Commission, and at securing financial resources. For a variety of reasons, this may not be a good time to approach the Court for additional resources. Task Force members are cognizant that this process will take time, but agree that it needs to be initiated now.

8) What do you envision will be your next steps to achieve a client-centered integrated and comprehensive delivery system within your state or territory? How will clients be actively involved in the determination of these next steps?

The EJTF is unanimous that the next step in Montana must be a comprehensive legal needs study. Without the data and results from such a study, any future initiatives by the Task Force will be suspect. The EJTF recalls the plight of the Montana Supreme Court's Gender Fairness Task Force [GFTF] a decade ago. Like the all-volunteer unfunded EJTF, the GFTF concluded that making recommendations without measuring the issues diminished the validity of the outcome.

The EJTF is exploring means to engage active client involvement in all of its committees. Client participation may be difficult to achieve, since there are no EJTF financial resources to assist with that involvement. MLSA's videoconferencing project may serve as a means of encouraging long distance participation by clients who would otherwise be unable to travel to EJTF meetings. Additionally, the EJTF has the flexibility to use telephone conference calls and different meeting locations to enable client participation.

9) What has been the greatest obstacle to achieving a statewide, integrated, client-centered delivery system and how was that obstacle overcome or, alternatively, how do you plan to overcome that obstacle?

See response to question 8.

10) Has any benefit-to-cost analysis been made in terms of creating a comprehensive, integrated and client-centered legal services delivery system in your state? If yes, what does your analysis show?

The EJTF has not conducted a benefit-to-cost analysis of creating a comprehensive, integrated and client-centered legal services delivery system. The EJTF does not consider such a study a priority at this time.

11) What resources, technical assistance and support would help you meet your goals?

The absence of a legal needs study is an impediment to accomplishing other EJTF goals. The Task Force abounds with the vitality and energy of its volunteer members, but the vigor of its membership is dissipated by the amount of resources devoted to this one task.

Resources are a major issue in Montana, for a legal needs study, for an equal justice infrastructure, and for providing additional services. Montana is in the midst of a major budget crisis, with a \$41 million budget deficit in August of this year. It is unlikely that any funds will be made available through in-state governmental entities. The Montana Justice Foundation, the state IOLTA entity, is functioning in the red and is not a funding source, as it decided to eliminate all grants for 2002-03, including the amounts typically awarded to providers: \$137,500 to Montana Legal Services Association, \$43,000 to the Montana Pro Bono Project, and approximately \$35,000 divided among other providers and educational programs. The Legal Needs Study Committee continues to explore funding entities at the state and national levels. It has identified a source of partial funding in Montana through an attorney-liability insurance company.

The EJTF subcommittees are hard at work with issues and programs that will aid the access to justice picture in Montana. Ultimately, however, the EJTF must make significant progress on assessing the legal needs of Montana's low-income population before the entire horizon of access to justice becomes clear for the state and for the justice community.

In addition to resources, the EJTF needs support and technical assistance in a variety of areas. Assistance in determining standards to evaluate the quality of services would be helpful. It also needs assistance in defining a means, and the resources, to do that. The EJTF also needs technical assistance in determining how to evaluate the efficiency of the delivery system.

Nurturing collaboration and cooperation between justice stakeholders is a major EJTF responsibility. With the appointment of the State Bar's new EJ Coordinator, the EJTF is advancing toward more active training coordination, a best practices information collection and distribution mechanism, and improving methods for collaboration among justice partners. While the justice stakeholders in Montana are reasonably effective in

their own right, there is little collaborative work on issues of mutual interest. The EJTF could use technical assistance to determine the best ways to foster collaboration.

II. To what extent have intended outcomes of a comprehensive, integrated client-centered legal services delivery system been achieved including but not limited to service effectiveness/quality; efficiency; equity in terms of client access; greater involvement by members of the private bar in the legal lives of clients, and client community empowerment?

Overview: Montana is in the early stages of developing a comprehensive, integrated client-centered delivery system. Montana Legal Services Association continues to be the primary provider of services, with some supplementation from the People's Law Center, the Montana Advocacy Project, and various pro bono programs around the state. The Equal Justice Task Force was created primarily to provide long-range, integrated planning among legal assistance providers, to coordinate access to justice, and to foster the development of an integrated civil delivery system.

The creation of the Task Force itself was a major step forward for the state of Montana. Although the State Bar of Montana's Access to Justice Committee has existed since 1996, and originally tried to include state planning, its primary purpose evolved to encouraging private bar pro bono involvement. The Task Force is the first statewide entity to focus on the broader state planning issues. Having the endorsement of the Montana Supreme Court and bar leadership among its membership gives the Task Force a high profile and the ability to make Equal Justice issues prominent in Montana's legal community.

Because the Task Force was created less than two years ago, it is still in its formative stages. The Task Force has established various committees to address important Equal Justice issues. In an effort to develop intended outcomes, Task Force members and other players in the Equal Justice community participated in a day-long, facilitated retreat, supported by the Legal Services Corporation, in late July. The results of this retreat, referenced above, will help us formulate more specific outcomes for the future.

The remainder of our responses to these questions should be interpreted with this history as backdrop. Although Montana's Equal Justice community is moving forward in important ways, we are still formulating the institutional structures to develop outcomes and to assess the efficiency and quality of services.

Funding limitations constrain the program's ability to engage in full-scale community empowerment efforts throughout the state. However, there are some efforts within the state to work with communities on larger, systemic issues.

1) In terms of the issues impacting upon low-income persons within your state, what strategies have you designed to address these issues and how do you plan to measure your future success in addressing your objectives?

The Equal Justice Task Force, through its Legal Needs Study Committee, plans to conduct a statewide legal needs study that would identify, for the first time ever, the specific legal needs of low-income Montanans. The goal is to identify not just legal needs, but also the specific areas of law in which services are needed, the geographic locations in which services are most needed, and the types of services (i.e., forms, self-help materials, community education, individual representation, etc.) that would best assist clients. A legal needs study will assist in quantifying those issues that have the most impact on low-income citizens. Analyzing the data will further enable us to determine the most effective strategies for addressing these concerns, and exploring innovative delivery mechanisms. An important component of any new services implemented will be client assessment of their effectiveness.

Success will be measured in a variety of ways. In the short-term, success will be securing funding for a legal needs study and conducting the study. Long-term success will be measured by the addition of new and innovative programs designed to address the gaps in services identified in the study, and an ongoing feedback from clients about the nature and quality of the services received.

2) Has the legal services delivery system expanded access and services through coordination with providers throughout the state? Can this be quantified?

The newest mechanism in the state for expanding services is the new website, www.MontanaLawHelp.org. See description in Section I, subpart 2, A [4].

Additionally, MLSA has established a videoconferencing project. See description in Section I, Subpart 4, Future Steps narrative. Because the project is relatively new, it is too early to quantify the amount of services provided.

The State Bar of Montana Board of Trustees recently approved both a Modest Means Program, to help fill gaps between free legal assistance and the cost of private lawyer representation, and an Emeritus Lawyer program developed by the State Bar's Access to Justice Committee, which makes pro bono service more attractive to and easier for retired lawyers. Both programs are in the implementation process.

3) Has the quality of services provided by the legal services delivery system improved? How?

Assessing system improvement requires two elements: a standard by which the services are measured and a means to measure those services. Some of the Equal Justice stakeholders engage in self-assessment, others do not. Also, evaluating direct

providers and pro bono providers require different criteria. The EJTF sees measuring legal services delivery system improvements as a long-term project and has not yet devoted time or resources to that task.

4) Since 1998, has there been improvement in the relative equity of client access throughout the state for all low-income clients regardless of who they are, where in the state they reside, what languages they speak, their race/gender/national origin, or the existence of other access barriers? How is this equity achieved?

No stakeholders that we know of have specifically measured whether previously underserved geographic, racial, or other special groups are now better served. At least theoretically, general availability to some legal services has improved statewide for low-income people through hotlines and 800 numbers, new websites and the videoconferencing project. MLSA has been able to rebuild to some degree following the late 90's cutbacks. MAP and Peoples' Law Center have grown and expanded services. Most justice stakeholders in Montana have outreach efforts to provide services to the underserved, particularly those in geographically remote, rural areas of the state. All justice players provide services regardless of race, national origin, ethnicity, or gender.

5) Since 1998, has there been improvement in the relative equity in terms of the availability of a full range of civil Equal Justice delivery capacities throughout the state? What mechanisms have been developed to ensure such relative equity is achieved and maintained? Since 1998, has there been improvement in the relative equity in the development and distribution of civil Equal Justice resources throughout the state? Are there areas of the state that suffer from a disproportionate lack of resources (funding as well as in-kind/pro bono)? If so, is there a strategy to overcome such inequities?

Providing equity in the provisions of services throughout the state is a major challenge. Because of Montana's size and geography, there are portions of the state with very few people. Although some residents in those areas must need legal assistance, these same communities are likely to have few lawyers and even fewer lawyers willing to provide pro bono assistance.

Despite these impediments, the range of delivery models has expanded. For example, Montana Legal Services Association is expanding its Family Law Advice Clinic model, which originated in Missoula County, to Ravalli County. Collaboration between the Commission on Self-Represented Litigants and MLSA has resulted in forms for pro se family law litigants, which should assist those unable to secure a lawyer's assistance.

MontanaLawHelp.org will provide information for all Montanans with access to the Internet. Similarly, the videoconferencing project provides the assistance of an attorney to MLSA clients residing in communities without legal services attorneys, further expanding the geographical reach of MLSA.

Regarding pro bono services, Montana has established a judicial district system. Each of the 22 judicial districts is encouraged to develop its own program model and development assistance is available from the State Bar's Equal Justice Coordinator. The Montana Pro Bono Project, and its successor initiative, assists and encourages the development of pro bono programs. This model allows for creativity and systems consistent with the local legal culture, and has resulted in some jurisdictions having almost mandatory pro bono, imposed by local judges. An unavoidable result, however, is that programs in some jurisdictions are more effective than those in others.

6) Does the legal services delivery system operate efficiently?

We do not know the answer to this question. Technical assistance on how to determine the answer would be helpful.

7) Has the system expanded the way it involves private lawyers in the delivery of essential services to low-income people? Does the system effectively and efficiently use the private bar to deliver essential services to low-income people?

Since 1998, there has been considerably greater involvement by the private bar in meeting the legal needs of the poor in Montana. This involvement can be measured in a number of ways. One way is by increased leadership and energy devoted to these issues. As mentioned previously, Montana has been working on establishing the framework for long-term efforts to increase access to justice. These efforts have included the establishment of the Court's Equal Justice Task Force, the creation of the Commission on Self-Represented Litigants, the continued work of the State Bar's Access to Justice Committee, the Montana Justice Foundation (the state IOLTA entity), and increased involvement by State Bar leadership and staff.

Until March 2002 the State Bar's Pro Bono Project, directed by Judy Williams, continued to work with judges and bar associations in local jurisdictions to improve pro bono involvement around the state. Those efforts focused on providing support, technical assistance, and occasional referrals for pro bono efforts throughout the state. Between 1994 and 1999 pro bono participation in organized projects in Montana rose dramatically, from an MLSA-reported low of 93 pro bono lawyers in 1994 to over 600 in 1999. In 1999 the State Bar implemented voluntary pro bono reporting. Results for 2001 are still being compiled, but we estimate participation is steady at about 25% of the active Bar living in Montana.

Following Judy Williams' resignation from that position in March 2002, and the loss of funding from the Montana Justice Foundation, the State Bar reconfigured the position, creating the position of Equal Justice Coordinator. The recently hired coordinator, Ann Gilkey, will provide support to the State Bar's Access to Justice Committee, the Court's Equal Justice Task Force, and the pro bono program. At this point it is impossible to judge this change's impact on private attorney involvement.

There are several impediments to effectively using the private bar to provide services. One of the ongoing challenges to involving the private bar in providing free legal services is the coordination of pro bono referrals. Montana Legal Services Association has established priorities and frequently provides little or no assistance to clients with problems outside these areas. In an effort to limit numbers of cases and to provide efficient and quality services, Montana Legal Services limits the calls (or in-person requests for services) from people with cases outside of the priority areas. However, pro bono attorneys may be willing to handle some of these cases, and in fact, may be more willing to handle these cases than those cases within the MLSA priorities. The Task Force will be exploring ways to help identify the most efficient mechanism for providing pro bono services to low-income people with problems outside of the MLSA priority areas.

A second impediment to effectively utilizing the private bar is the dearth of resources for coordination and technical assistance on pro bono issues. Although the State Bar has funded and now staffs the Equal Justice Coordinator position, the duties for this position are more expansive than those of the previous Pro Bono Coordinator. This position remains part time. The impact of this change on private attorney involvement remains to be seen.

During the last two years Equal Justice advocates have worked to increase attorney and public awareness on Equal Justice issues. One initiative for doing this is statewide Equal Justice conferences. The first gathering was held September 14, 2001 in conjunction with the State Bar's Annual Meeting in Missoula. The second annual "Creating Equal Justice in Montana" conference will be held September 27, 2002 in Billings. This meeting will be conducted in a CLE format, including two plenaries and a variety of concurrent sessions. We believe these gatherings will increase interest in Equal Justice issues and encourage more involvement by private attorneys.

Service Effectiveness/Quality

Those lawyers who do provide pro bono legal services are providing, overall, the same quality of services provided to their paying clients. MLSA and the Montana Pro Bono Project received very few complaints from clients about their pro bono lawyers. However, clients are not asked to evaluate the services they received when their case is completed. If time and resources permit, broad client satisfaction information would be valuable.

Efficiency

In the judicial districts with "all-in" or "opt-out" pro bono programs, client/lawyer matching is achieved efficiently according to available resources. In areas where programs are all-volunteer, referrals are time consuming and frequently viewed as "not worth it" by the MLSA office.

Involvement by the Private Bar:

See descriptions of pro bono programs in Section I, subpart 2, A – V above.

Client Community Empowerment:

Private attorneys lead client classes and present community education seminars.

III. Are the best organizational and human resource management configurations and approaches being used?

1) For calendar year 2001, what is the current configuration of programs (LSC and non-LSC) that deliver services to low-income clients - i.e., what are the components (size, areas of responsibility, governance) of the delivery system? What are the funding sources and levels for each of these components of the delivery system?

The most significant components of the delivery system are listed below. See also, the answer to Section I, subpart 2, A – V. Although specific funding information was not available for all entities by the deadline, we have provided what we had, are seeking further information and will provide it in a supplement within 90 days.

Montana Legal Services Association (MLSA): The statewide LSC-funded provider of civil legal services to the poor is governed by a Board of Directors. Funding is provided primarily by LSC, with additional monies from the Montana Justice Foundation (IOLTA money), a small state contract, Department of Justice VAWA grant, and other small grants. It provides direct services and pro bono referrals in conjunction with the Montana Pro Bono Project. Services provided vary greatly by location.

Montana Advocacy Program (MAP): The state's federally funded Protection and Advocacy agency, it provides services in a variety of areas, including assistive technology, ADA issues, and services to the mentally ill and developmentally disabled. Although MAP has no income guidelines, many of its clients are low-income. Funding is mainly federal.

People's Law Center: Non-LSC provider of certain limited services for low-income people in western Montana, including Butte, Great Falls, and Helena. PLC represents individuals in social security matters and some public benefits matters. Fees collected from social security cases fund it. Governance is by Board of Trustees.

Montana Pro Bono Project: The Montana Justice Foundation and State Bar of Montana funded state support project that recruited and trained volunteer lawyers to accept referrals from Montana Legal Services Association, helped local bar associations and judicial districts create pro bono programs and created and compiled supporting materials. Fiscal Year 2001: Montana Justice Foundation \$43,000; State Bar of Montana \$10,400. (This project was eliminated in 2002 and was replaced with the State Bar's Equal Justice Coordinator.)

Cascade County Law Clinic: Serving Cascade County (Great Falls) and a few outlying contiguous counties. Funding: Montana Justice Foundation, Cascade County Bar Association, Montana Legal Services, and other grants.

Crowley, Haughey, Hanson, Toole & Dietrich Pro Bono Program: A Billings private law firm employs a lawyer to represent low-income clients in civil legal matters, largely family law, and to recruit and support other firm lawyers doing pro bono work. It is privately funded and governed by the law firm.

2) Since October 1998, what other configurations and/or approaches have been seriously explored? Were any adopted? Were any rejected? Are any changes contemplated in the coming year?

A re-configuration within MLSA resulted in a hotline intake system to deliver information and advice on a variety of simple legal questions. A completely centralized intake system was contemplated and rejected, as too costly when crossing two telephone LATA areas. Changes are expected in the coming year based on the loss of IOLTA funding (in fiscal year 2001 IOLTA funding was \$137,500).

3) Is there any identifiable duplication in the capacities or services in the state? How many duplicative systems - accounting, human resource management, case management, etc. - currently exist? Does the service delivery system now in use minimize or eliminate duplications that existed prior to October 1, 1998?

Duplication is not a significant issue in Montana since MLSA has always been statewide program.

4) Since October 1998, what innovative service delivery systems, mechanisms, or initiatives have been adopted in the state? Have any been explored and then rejected?

The "innovative" service delivery systems adopted include: the Eastern Montana MLSA hotline; expanded judicial assistance in referring pro bono cases; video conferencing; expanded *pro se* clinics; development of pro se forms through the Montana Supreme Court's Commission on Self-Represented Litigants; and the first MLSA website [www.montanalegalservices.com] in the process of being replaced by www.MontanaLawHelp.org (to provide answers to frequently asked question *via* the Internet).

Closing Summary

The Montana Supreme Court's Equal Justice Task Force welcomed this opportunity to evaluate our state planning efforts and the status of Equal Justice in our communities. As indicated, there have been many positive developments in Montana,

particularly in the last eighteen months. Those include the creation of the Task Force and the Court's Commission on Self-Represented Litigants, additional support from the State Bar of Montana for Equal Justice issues, the LSC-funded Equal Justice retreat, the development of the statewide website, and several VISTA positions to support the work of MLSA. Equal Justice advocates are continuing our work to create more interest in these issues, and will be conducting our second annual Equal Justice conference in September. Perhaps most significantly, these efforts have resulted in more lawyers and others throughout the state focusing on Equal Justice issues.

We know that we have more work to do. At the moment we are focused on a legal needs study, but we recognize that this is just the starting point, although a critical one. We will continue to work to involve all of the relevant players in these efforts, to evaluate our delivery system, to involve more consumers in our work, to focus our energies on the special needs of selected communities, in particular Native Americans and migrants, to further diversify the Equal Justice community, and to develop tools for evaluating the services provided in the state.